

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: 20-cr-594(AJN)  
DATE FILED: 2/16/22

United States of America,

-v-

20-cr-594 (AJN)

Kevin Rolle,

Defendant.

ORDER

ALISON J. NATHAN, District Judge:

The Court received the attached four letters from Mr. Rolle. The first two letters, dated January 27, 2022, and February 5, 2022, respectively, concern Mr. Rolle's pending motion for compassionate release. The Court will resolve that motion in due course.

The third letter, dated February 8, 2022, requests the return of "all electronic devices seized from" Mr. Rolle during his arrest. The Court understands this letter to refer to the electronic devices listed in a prior letter submitted by Mr. Rolle: two iPhones, two MacBook Pros, and an iPad. Dkt. Nos. 128, 136. The Government has filed a substitute asset forfeiture motion that, if granted, would forfeit Mr. Rolle's interest in these assets and apply them to Mr. Rolle's outstanding money judgment. Dkt. No. 106. That motion is now fully briefed. Dkt. No. 135. The Court will therefore consider Mr. Rolle's request when it resolves, in due course, the outstanding substitute asset forfeiture motion.

The fourth letter, also dated February 8, 2022, responds to the Government's letter dated February 4, 2022, in which the Government explained its usual practice of retaining a defendants' identification documents until shortly before their release from custody and of not returning documents that the FBI has determined to be fraudulent. Dkt. No. 141. The Court, on

the Government's representations, denied Mr. Rolle's request for the immediate return of his identification documents. Dkt. No. 142. Having reviewed and considered Mr. Rolle's letter, the Court's conclusion remains unchanged. Mr. Rolle's fourth letter is therefore DENIED.

The Clerk's office is respectfully asked to mail a copy of this order to Mr. Rolle and note the mailing on the public docket.

SO ORDERED.

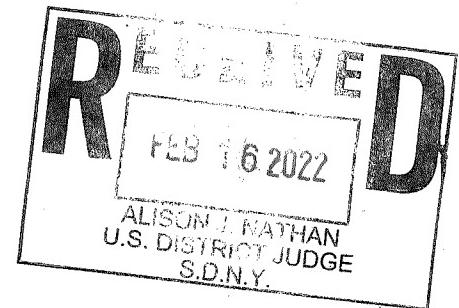
Dated: February 16, 2022  
New York, New York

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ALISON J. NATHAN  
United States District Judge

Kevin Dion Rolle Jr.

The Hon. Alison J. Nathan  
United States District Judge  
40 Foley Square  
New York, NY 10007



27<sup>th</sup> January, 2022

Re: USA vs. Rolle, #20-cr-594 (AJN)

Dear Judge Nathan,

I am writing to provide the Court with proof I submitted an administrative request for compassionate release to the Warden of MDC Brooklyn on 12<sup>th</sup> November, 2021.

Attached is a copy of my emailed request, which was resent for a second time on 07<sup>th</sup> December, 2021.

Therefore, the submitted Motion for Compassionate Release is ripe for review by the Court, and has been so since it was filed.

Respectfully submitted,

Kevin Dion Rolle.

Kevin Dion Rolle Jr.

TRULINCS 54230069 - ROLLE, KEVN DION - Unit: BRO-J-B

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FROM: 54230069  
TO: CMC  
SUBJECT: \*\*\*Request to Staff\*\*\* ROLLE, KEVN, Reg# 54230069, BRO-J-B  
DATE: 12/07/2021 03:09:06 PM

To: The Warden  
Inmate Work Assignment: Unassigned

I am resending the following email for the attention of the Warden.  
-----ROLLE, KEVN DION on 11/12/2021 8:04 PM wrote:

>

This is for the warden.

I would like to apply for compassionate release. I was sentenced to 60 months for wire fraud. I am currently 13 months into my sentence. My mother is the sole caretaker for my 4 minor children. My mother has been diagnosed with ALS and is unable to care for herself or my kids. I am the only possible caretaker for both my mother and my children. I intend on returning to the Bahamas upon my release to take care of my mother and my children. I intend on working in academia as a college professor to provide for my family. I am therefore requesting that I be considered for compassionate release.

Thank you

Kevin Rolle  
Inmate # 54230-069

Kevin Rolle #5423D-D69  
MDC Brooklyn  
80 Jay Street  
Brooklyn, NY 11232

NEW YORK, NY 100-  
2 FEB 2022 PM 8:45 AM  
FBI - NEW YORK

10007-150729



The Hon. Alison J. Nathan  
US District Court  
40 Foley Square  
New York, NY 10007

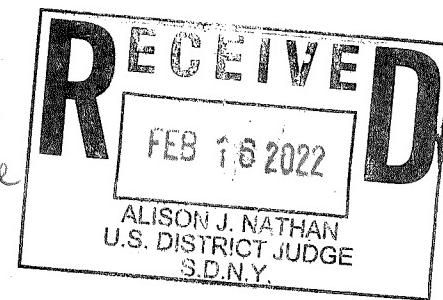
U.S. MAIL  
BOSTON

10007-150729

Legal Mail

Kevin Dion Rolle Jr.

The Hon. Alison J. Nathan  
United States District Judge  
40 Foley Square  
New York, NY 10007



05<sup>th</sup> February, 2022

Re: USA vs. Rolle, #20-cr-594 (AJN)

Dear Judge Nathan,

This letter is in reply to the government's letter opposing my pending Motion for Compassionate Release.

Applicable Law - Notice of Appeal:

The defendant concedes to the government's contention that because an appeal is pending before the Second Circuit, this Court lacks the jurisdiction to decide on this motion. In light of this, the defendant respectfully requests that the Court issue an indicative ruling if it would grant the motion if the Second Circuit would remand for that purpose.

### Extraordinary and Compelling Reason for Compassionate Release:

The Court has discretion to afford relief to defendants under 3582(c)(1)(A) even where their circumstances do not fit squarely within the current policy statement of the Sentencing Commission as reflected in U.S.S.G. 1B1.13. Although 1B1.13 provides guidance, it does not constrain the Court from making an independent assessment of whether extraordinary and compelling reasons warrant a reduction.

Admirably, the Government does concede that defendant suffers from serious medical conditions. However, the Government's contention is that because defendant has been vaccinated, defendant's risk of severe illness from COVID-19 has largely been mitigated.

However, guidance from the Centers for Disease Control and Prevention (CDC) indicates that the vaccine may not be effective or is less effective on individuals with obesity. The CDC also states that persons with co-morbidities such as asthma, present an increased risk for severe illness from COVID-19 even when vaccinated.

The Government's argument is therefore moot.

Furthermore, guidance from the CDC indicates that in light of the highly contagious Omicron variant, persons should be wearing medical grade N95 or KN95 face masks. In the face of this new guidance, the Federal Bureau of Prisons has not yet began to provide inmates with medical masks.

The defendant is currently incarcerated at MDC Brooklyn which is currently undergoing a new surge of inmate COVID positive cases. The nature of the pandemic is static and constantly changing. The Government argues that both MDC Brooklyn and FCI Hazelton are successfully combatting the threat of COVID-19. If this were true, there would be no COVID-positive inmates in these institutions and the numbers would not be rising daily.

Given defendant's documented medical conditions and the COVID-19 pandemic, further incarceration could effectively serve as a death sentence to defendant. Defendant submits that for these reasons, extraordinary and compelling circumstances exist that would warrant a sentence reduction to time-served pursuant to 18 U.S.C. § 3582 (c)(1)(A).

It is important to note that none of the COVID-19 vaccines are designed to prevent infection. The medical data available shows that the most significant impact of the COVID-19 disease is on the lungs. Defendant is an asthmatic and uses a CPAP machine. Combined with defendant's other medical ailments, defendant is at grave risk for serious illness or death from COVID-19. This risk is further heightened in incarcerated settings where inmates are not provided with optimal healthcare. Further, defendant is designated to FCI Hazelton, a medium-security facility in West Virginia. Unlike BOP medical centers which are capable of providing advanced level care, FCI Hazelton provides only basic ambulatory care. In fact, if defendant had been designated to FMC Devens as the Court recommended, defendant would concede that the BOP is capable of providing appropriate medical care if defendant became severely ill from COVID-19. However, should defendant contract COVID-19 and become severely ill, defendant is designated to a facility that cannot adequately treat defendant. This places defendant's life at grave risk.

Additionally, Discovery Health, a health insurance provider released results of research on Omicron, along with the South African Medical Research Council. They found that two doses of the Pfizer-BIONTECH mRNA vaccine offered 30% protection against the Omicron variant. Its effectiveness in reducing severe illness from the disease is also lower. It is important to note that the United States is currently experiencing an average daily death rate of 2,300 persons which includes vaccinated individuals.

### Section 3553(a) Factors:

The Section 3553(a) factors weigh in favor of releasing defendant. Defendant has already served approximately 16 months in federal custody. Defendant continues to maintain strong family ties and has a solid release plan. In addition, defendant has taken advantage of numerous opportunities while incarcerated, to include a variety of academic and practical courses. Although defendant's offense is serious, it is important to note that defendant has no history of violence and has remained discipline free while incarcerated.

While defendant's criminal history could give the Court pause, the Court should find that defendant's discipline-free incarceration, release plan, and the fact that defendant will be removed from the United States satisfactorily reduce defendant's risk of recidivism.

Conclusion:

The defendant has identified an extraordinary and compelling reason justifying release and the Section 3553(a) factors justify a sentence of time served. Defendant respectfully requests the Court issue an indicative ruling if it would grant the motion if the Court of Appeals remands for that purpose.

Respectfully submitted,



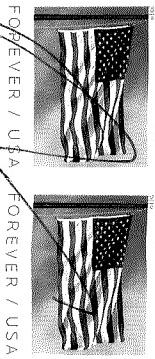
Kevin Dion Rolle Esq.

Kevin Rollef #54230-069  
MDC Brooklyn  
80 29th Street  
Brooklyn, NY 11232

U.S. MAIL  
SDNY

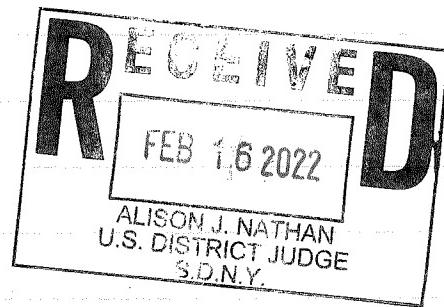
The Hon. Alison J. Nathan  
United States District Court  
40 Foley Square  
New York, NY 10007

10007-0007-0000



Kevin Dion Rolle Jr.

The Hon. Alison J. Nathan  
United States District Judge  
40 Foley Square  
New York, NY 10007



08<sup>th</sup> February, 2022

Re: USA vs. Rolle, # 20-cr-594 (AJN)

Dear Judge Nathan,

I am writing to request that the court issue an order to have all electronic devices seized from my arrest returned.

Respectfully submitted,  
Kevin Dion Rolle Jr.

Kevin Dion Rolle Jr.

Kevin Dion Rolle Jr.

The Hon. Alison J. Nathan  
United States District Judge  
40 Foley Square  
New York, NY 10007

08<sup>th</sup> February, 2022

Re: USA vs. Rolle, #20-cr-594 (AJN)

Dear Judge Nathan,

This letter is in response to the Government's letter dated "February 4, 2021" (sic) outlining the Government's position on my request to have my passports returned.

The Government has initially described what "typically" takes place in situations such as this. The Government has not cited any evidentiary need for the passports to be retained by the FBI, nor have they cited any lawful authority for their retention. They have simply suggested that any identification documents will be turned over to the assigned Enforcement and Removal Operations Officer shortly before my scheduled deportation. This is flagrantly unacceptable. The FBI is notoriously known

for misplacing evidence. It is important to note that defendant's scheduled release date from the Federal Bureau of Prisons is 30<sup>th</sup> January 2025, almost three years away. The Government has also not stated why the continued usage of photographs or copies of defendant's passports, as was the case in the District Court proceedings, would be unsuitable for any matters raised in the appeals court. It is unfathomable to imagine any circumstances for this case that would require the Government to produce the defendant's original passports to the Court of Appeals. The Government's position is clearly intended to exasperate.

Further, the Government's position on the defendant's Irish passport has no basis in law. The United States nor the FBI are appropriate arbiters to determine if said passport was illicitly obtained or is "contraband". Simply put any issues or disputes related to said passport is between the defendant and the Irish Government; not the United States. Defendant requests issuance of an Order requiring return of all the passports.

Respectfully submitted,



Kevin Dion Rolle Jr.

Kevin Rose, #54230-061  
WDC Brooklyn  
80 Court Street  
Brooklyn, NY 11232

NEW YORK NY 100

9 FEB 2022 PM 12 L

The Hon. Alison J. Nathan  
United States District Court  
40 Foley Square  
New York, NY 10007

10007-150729

USMNY  
SDNY

